

SENATE NO. 842

AN ACT CREATING THE UNIFORMED CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The General Laws as appearing in the 2004 Official Edition are hereby amended by
2 inserting after Chapter 208 the following new chapter:-

3 Chapter 208A

ARTICLE 1

GENERAL PROVISIONS

6 SECTION 101. SHORT TITLE. This Act may be cited as the Uniform Child-Custody Jurisdiction and
7 Enforcement Act.

8 SECTION 102. DEFINITIONS. In this Act:

9 (1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

10 (2) "Child" means an individual who has not attained 18 years of age.

11 (3) "Child-custody determination" means a judgment, decree, or other order of a court providing for
12 the legal custody, physical custody, or visitation with respect to a child. The term includes a
13 permanent, temporary, initial, and modification order. The term does not include an order relating to
14 child support or other monetary obligation of an individual.

15 (4) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or
16 visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation,
17 neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection
18 from domestic violence, in which the issue may appear. The term does not include a proceeding
19 involving juvenile delinquency, contractual emancipation, or enforcement under Article 3.

20 (5) "Commencement" means the filing of the first pleading in a proceeding.

21 (6) "Court" means an entity authorized under the law of a State to establish, enforce, or modify a child-
22 custody determination.

23 (7) "Home State" means the State in which a child lived with a parent or a person acting as a parent for
24 at least six consecutive months immediately before the commencement of a child-custody proceeding.
25 In the case of a child less than six months of age, the term means the State in which the child lived
26 from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned
27 persons is part of the period.

28 (8) "Initial determination" means the first child-custody determination concerning a particular child.

29 (9) "Issuing court" means the court that makes a child-custody determination for which enforcement is
30 sought under this Act.

31 (10) "Issuing State" means the State in which a child-custody determination is made.

32 (11) "Modification" means a child-custody determination that changes, replaces, supersedes, or is
33 otherwise made after a previous determination concerning the same child, whether or not it is made by
34 the court that made the previous determination.

35 (12) "Person" includes government, governmental subdivision, agency, or instrumentality, or any other
36 legal or commercial entity.

37 (13) "Person acting as a parent" means a person, other than a parent, who:

38 (A) has physical custody of the child or has had physical custody for a period of six consecutive
39 months, including any temporary absence, within one year immediately before the commencement of
40 a child-custody proceeding; and

41 (B) has been awarded legal custody by a court or claims a right to legal custody under the law of this
42 State.

43 (14) "Physical custody" means the physical care and supervision of a child.

44 (15) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United
45 States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United
46 States.

47 (16) "Tribe" means an Indian tribe, or band, or Alaskan Native village, which is recognized by federal
48 law or formally acknowledged by a State.

49 (17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical
50 custody of a child.

51 SECTION 103. PROCEEDINGS GOVERNED BY OTHER LAW. This Act does not govern:

52 (1) An adoption proceeding; or

53 (2) A proceeding pertaining to the authorization of emergency medical care for a child.

54 SECTION 104. APPLICATION TO INDIAN TRIBES.

55 (a) A child-custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare
56 Act, 25 U.S.C. 1901 et seq., is not subject to this Act to the extent it is governed by the Indian Child
57 Welfare Act.

58 (b) A court of this State shall treat a tribe as a State of the United States for purposes of Articles 1 and
59 2.

60 (c) A child-custody determination made by a tribe under factual circumstances in substantial
61 conformity with the jurisdictional standards of this Act must be recognized and enforced under the
62 provisions of Article 3.

63 SECTION 105. INTERNATIONAL APPLICATION OF ACT.

64 (a) A court of this State shall treat a foreign country as a State of the United States for purposes of
65 applying Articles 1 and 2.

66 (b) A child-custody determination made in a foreign country under factual circumstances in substantial
67 conformity with the jurisdictional standards of this Act must be recognized and enforced under Article
68 3 of this Act.

69 (c) The court need not apply the provisions of this Act when the child custody law of the other country
70 violates fundamental principles of human rights.

71 SECTION 106. BINDING FORCE OF CHILD-CUSTODY DETERMINATION. A child-custody
72 determination made by a court of this State that had jurisdiction under this Act binds all persons who
73 have been served in accordance with the laws of this State or notified in accordance with Section 108
74 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be
75 heard. The determination is conclusive as to them as to all decided issues of law and fact except to the
76 extent the determination is modified.

77 SECTION 107. PRIORITY. If a question of existence or exercise of jurisdiction under this Act is
78 raised in a child-custody proceeding, the question, upon request of a party, must be given priority on
79 the calendar and handled expeditiously.

80 SECTION 108. NOTICE TO PERSONS OUTSIDE STATE.

81 (a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in
82 a manner prescribed by the law of this State for the service of process or by the law of the State in
83 which the service is made. Notice must be given in a manner reasonably calculated to give actual
84 notice, but may be by publication if other means are not effective.

85 (b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the
86 State in which the service is made.

87 (c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the
88 jurisdiction of the court.

89 SECTION 109. APPEARANCE AND LIMITED IMMUNITY.

90 (a) A party to a child-custody proceeding who is not subject to personal jurisdiction in this State and is
91 a responding party under Article 2, a party in a proceeding to modify a child-custody determination
92 under Article 2, or a petitioner in a proceeding to enforce or register a child-custody determination
93 under Article 3 may appear and participate in the proceeding without submitting to personal
94 jurisdiction over the party for another proceeding or purpose.

95 (b) A party is not subject to personal jurisdiction in this State solely by being physically present for the
96 purpose of participating in a proceeding under this Act. If a party is subject to personal jurisdiction in
97 this State on a basis other than physical presence, the party may be served with process in this State. If
98 a party present in this State is subject to the jurisdiction of another State, service of process allowable
99 under the laws of that State may be accomplished in this State.

100 (c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to
101 the participation in a proceeding under this Act committed by an individual while present in this State.

102 SECTION 110. COMMUNICATION BETWEEN COURTS.

103 (a) A court of this State may communicate with a court in another State concerning a proceeding
104 arising under this Act.

105 (b) The court may allow the parties to participate in the communication. If the parties are not able to
106 participate in the communication, the parties shall be given the opportunity to present facts and legal
107 arguments before a decision on jurisdiction is made.

108 (c) A communication between courts on schedules, calendars, court records, and similar matters may
109 occur without informing the parties. A record need not be made of that communication.

110 (d) Except as provided in subsection (c), a record must be made of the communication. The parties
111 must be informed promptly of the communication and granted access to the record.

112 (e) For the purposes of this section, "record" means information that is inscribed on a tangible medium
113 or that which is stored in an electronic or other medium and is retrievable in perceivable form. A
114 record includes notes or transcripts of a court reporter who listened to a conference call between the
115 courts, an electronic recording of a telephone call, a memorandum or an electronic record of the
116 communication between the courts, or a memorandum or an electronic record made by a court after
117 the communication.

118 SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.

119 (a) In addition to other procedures available to a party, a party to a child- custody proceeding may
120 offer testimony of witnesses who are located in another State, including testimony of the parties and
121 the child, by deposition or other means allowable in this State for testimony taken in another State.
122 The court on its own motion may order that the testimony of a person be taken in another State and
123 may prescribe the manner in which and the terms upon which the testimony is taken.

124 (b) A court of this State may permit an individual residing in another State to be deposed or to testify
125 by telephone, audiovisual means, or other electronic means before a designated court or at another
126 location in that State. A court of this State shall cooperate with courts of other States in designating an
127 appropriate location for the deposition or testimony.

128 (c) Documentary evidence transmitted from another State to a court of this State by technological
129 means that do not produce an original writing may not be excluded from evidence on an objection
130 based on the means of transmission.

131 SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.

132 (a) A court of this State may request the appropriate court of another State to:

133 (1) hold an evidentiary hearing;

134 (2) order a person to produce or give evidence under procedures of that State;

135 (3) order that an evaluation be made with respect to the custody of a child involved in a pending
136 proceeding;

137 (4) forward to the court of this State a certified copy of the transcript of the record of the hearing, the
138 evidence otherwise presented, and any evaluation prepared in compliance with the request; and

139 (5) order a party to a child-custody proceeding or any person having physical custody of the child to
140 appear in the proceeding with or without the child.

141 (b) Upon request of a court of another State, a court of this State may hold a hearing or enter an order
142 described in subsection (a).

143 (c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be
144 assessed against the parties according to the law of this State.

145 (d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations,
146 and other pertinent records with respect to a child-custody proceeding until the child attains 18 years
147 of age. Upon appropriate request by a court or law enforcement official of another State, the court
148 shall forward a certified copy of these records.

149 ARTICLE 2

150 JURISDICTION

151 SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.

152 (a) Except as otherwise provided in Section 204, a court of this State has jurisdiction to make an initial
153 child-custody determination only if:

154 (1) this State is the home State of the child on the date of the commencement of the proceeding, or was
155 the home State of the child within six months before the commencement of the proceeding and the
156 child is absent from this State but a parent or person acting as a parent continues to live in this State;

157 (2) a court of another State does not have jurisdiction under paragraph (1), or a court of the home State
158 of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate
159 forum under Section 207 or 208, and:

160 (A) the child and the child's parents, or the child and at least one parent or a person acting as a parent
161 have a significant connection with this State other than mere physical presence; and

162 (B) substantial evidence is available in this State concerning the child's care, protection, training, and
163 personal relationships;

164 (3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on
165 the ground that a court of this State is the more appropriate forum to determine the custody of the child
166 under Section 207 or 208; or

167 (4) no State would have jurisdiction under paragraph (1), (2), or (3).

168 (b) Subsection (a) is the exclusive jurisdictional basis for making a child- custody determination by a
169 court of this State.

170 (c) Physical presence of, or personal jurisdiction over, a party or a child is neither necessary nor
171 sufficient to make a child-custody determination.

172 SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.

173 (a) Except as otherwise provided in Section 204, a court of this State that has made a child-custody
174 determination consistent with Section 201 or 203 has exclusive, continuing jurisdiction over the
175 determination until:

176 (1) a court of this State determines that neither the child, the child and one parent, nor the child and a
177 person acting as a parent have a significant connection with this State and that substantial evidence is
178 no longer available in this State concerning the child's care, protection, training, and personal
179 relationships; or

180 (2) a court of this State or a court of another State determines that neither the child, nor a parent, nor
181 any person acting as a parent presently resides in this State; or

182 (3) the court finds that a parent or person acting as a parent who resides in Massachusetts has engaged
183 in a serious incident or pattern of abuse as defined by c. 208, §28A against the other parent or person
184 acting as a parent, or against a child who is the subject of the proceeding. If the court so finds, it shall
185 be presumed that this state does not have continuing, exclusive jurisdiction over the determination
186 unless the victim or the victim's custodial parent or guardian consents to continuing, exclusive
187 jurisdiction; or

188 (4) the parties mutually agree in writing that this state shall no longer have continuing, exclusive
189 jurisdiction and said agreement has been approved by the court.

190 (b) A court of this State that has exclusive, continuing jurisdiction under this section may decline to
191 exercise its jurisdiction if the court determines that it is an inconvenient forum under Section 207.

192 (c) A court of this State that has made a child-custody determination and does not have exclusive,
193 continuing jurisdiction under this section may modify that determination only if it has jurisdiction to
194 make an initial determination under Section 201.

195 SECTION 203. JURISDICTION TO MODIFY CHILD CUSTODY DETERMINATION. Except as
196 otherwise provided in Section 204, a court of this State may not modify a child-custody determination
197 made by a court of another State unless a court of this State has jurisdiction to make an initial
198 determination under Section 201(a)(1) or (2) and:

199 (1) the court of the other State determines it no longer has exclusive, continuing jurisdiction under
200 Section 202 or that a court of this State would be a more convenient forum under Section 207;

201 (2) a court of this State or a court of the other State determines that neither the child, nor a parent, nor
202 any person acting as a parent presently resides in the other State; or

203 (3) the parents or all persons acting as parents have mutually agreed in writing that this state shall have
204 the authority to modify a determination and such agreement has been approved by the court.

205 SECTION 204. TEMPORARY EMERGENCY JURISDICTION.

206 (a) A court of this State has temporary emergency jurisdiction if the child is present in this State and
207 the child has been abandoned or it is necessary in an emergency to protect the child because the child,
208 or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

209 (b) If there is no previous child-custody determination that is entitled to be enforced under this Act,
210 and if no child-custody proceeding has been commenced in a court of a State having jurisdiction under
211 Sections 201 through 203, a child-custody determination made under this section remains in effect
212 until an order is obtained from a court of a State having jurisdiction under Sections 201 through 203. If
213 a child-custody proceeding has not been or is not commenced in a court of a State having jurisdiction
214 under Sections 201 through 203, a child-custody determination made under this section becomes a
215 final determination, if:

216 (1) it so provides; and

217 (2) this State becomes the home State of the child.

218 (c) If there is a previous child-custody determination that is entitled to be enforced under this Act, or a
219 child-custody proceeding has been commenced in a court of a State having jurisdiction under Sections
220 201 through 203, any order issued by a court of this State under this section must specify in the order a
221 period of time which the court considers adequate to allow the person seeking an order to obtain an
222 order from the State having jurisdiction under Sections 201 through 203. The order issued in this State
223 remains in effect until an order is obtained from the other State within the period specified or the
224 period expires.

225 (d) A court of this State that has been asked to make a child-custody determination under this section,
226 upon being informed that a child-custody proceeding has been commenced, or a child-custody
227 determination has been made, by a court of a State having jurisdiction under Sections 201 through
228 203, shall immediately communicate with the other court. A court of this State that is exercising
229 jurisdiction pursuant to Sections 201 through 203, upon being informed that a child-custody
230 proceeding has been commenced, or a child-custody determination has been made by a court of
231 another State under a statute similar to this section shall immediately communicate with the court of
232 that State. The purpose of the communication is to resolve the emergency, protect the safety of the
233 parties and the child, and determine a period for the duration of the temporary order.

234 SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.

235 (a) Before a child-custody determination is made under this Act, notice and an opportunity to be heard
236 in accordance with the standards of Section 108 must be given to all persons entitled to notice under
237 the law of this State as in child-custody proceedings between residents of this State, any parent whose
238 parental rights have not been previously terminated, and any person having physical custody of the
239 child.

240 (b) This Act does not govern the enforceability of a child-custody determination made without notice
241 and an opportunity to be heard.

242 (c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding
243 under this Act are governed by the law of this State as in child-custody proceedings between residents
244 of this State.

245 SECTION 206. SIMULTANEOUS PROCEEDINGS.

246 (a) Except as otherwise provided in Section 204, a court of this State may not exercise its jurisdiction
247 under this Article if, at the time of the commencement of the proceeding, a proceeding concerning the
248 custody of the child had been previously commenced in a court of another State having jurisdiction
249 substantially in conformity with this Act, unless the proceeding has been terminated or is stayed by the
250 court of the other State because a court of this State is a more convenient forum under Section 207.

251 (b) Except as otherwise provided in Section 204, a court of this State, before hearing a child-custody
252 proceeding, shall examine the court documents and other information supplied by the parties pursuant
253 to Section 209. If the court determines that a child-custody proceeding was previously commenced in a
254 court in another State having jurisdiction substantially in accordance with this Act, the court of this
255 State shall stay its proceeding and communicate with the court of the other State. If the court of the
256 State having jurisdiction substantially in accordance with this Act does not determine that the court of
257 this State is a more appropriate forum, the court of this State shall dismiss the proceeding.

258 (c) In a proceeding to modify a child-custody determination, a court of this State shall determine
259 whether a proceeding to enforce the determination has been commenced in another State. If a

260 proceeding to enforce a child-custody determination has been commenced in another State, the court
261 may:

262 (1) stay the proceeding for modification pending the entry of an order of a court of the other State
263 enforcing, staying, denying, or dismissing the proceeding for enforcement;

264 (2) enjoin the parties from continuing with the proceeding for enforcement; or

265 (3) proceed with the modification under conditions it considers appropriate.

266 SECTION 207. INCONVENIENT FORUM.

267 (a) A court of this State that has jurisdiction under this Act to make a child-custody determination may
268 decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the
269 circumstances and that a court of another State is a more appropriate forum. The issue of inconvenient
270 forum may be raised upon the court's own motion, request of another court, or motion of a party.

271 (b) Before determining whether it is an inconvenient forum, a court of this State shall consider whether
272 it is appropriate that a court of another State exercise jurisdiction. For this purpose, the court shall
273 allow the parties to submit information and shall consider all relevant factors, including:

274 (1) whether domestic violence has occurred and is likely to continue in the future and which State
275 could best protect the parties and the child;

276 (2) the length of time the child has resided outside this State;

277 (3) the distance between the court in this State and the court in the State that would assume
278 jurisdiction;

279 (4) the relative financial circumstances of the parties and the effect of such circumstance on the ability
280 to litigate in a foreign jurisdiction;

281 (5) any agreement of the parties as to which State should assume jurisdiction;

282 (6) the nature and location of the evidence required to resolve the pending litigation, including the
283 testimony of the child;

284 (7) the ability of the court of each State to decide the issue expeditiously and the procedures necessary
285 to present the evidence; and

286 (8) the familiarity of the court of each State with the facts and issues of the pending litigation.

287 (c) If a court of this State determines that it is an inconvenient forum and that a court of another State
288 is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody
289 proceeding be promptly commenced in another designated State and may impose any other condition
290 the court considers just and proper.

291 (d) A court of this State may decline to exercise its jurisdiction under this Act if a child-custody
292 determination is incidental to an action for divorce or another proceeding while still retaining
293 jurisdiction over the divorce or other proceeding.

294 SECTION 208. JURISDICTION DECLINED BY REASON OF CONDUCT.

295 (a) Except as otherwise provided in Section 204 or by other law of this State, if a court of this State
296 has jurisdiction under this Act because a person invoking the jurisdiction has engaged in unjustifiable
297 conduct, the court shall decline to exercise its jurisdiction unless:

298 (1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

299 (2) a court of the State otherwise having jurisdiction under Sections 201 through 203 determines that
300 this State is a more appropriate forum under Section 207; or

301 (3) no other State would have jurisdiction under Sections 201 through 203.

302 (b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a), it may fashion
303 an appropriate remedy to ensure the safety of the child and prevent a repetition of the wrongful
304 conduct, including staying the proceeding until a child-custody proceeding is commenced in a court
305 having jurisdiction under Sections 201 through 203.

306 (c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction
307 pursuant to subsection (a), it shall charge the party invoking the jurisdiction of the court with
308 necessary and reasonable expenses including costs, communication expenses, attorney's fees,
309 investigative fees, expenses for witnesses, travel expenses, and child care during the course of the
310 proceedings, unless the party from whom fees are sought establishes that the award would be clearly
311 inappropriate. The court may not assess fees, costs, or expenses against this State except as otherwise
312 provided by law other than this Act.

313 SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.

314 (a) Subject to local law providing for the confidentiality of procedures, addresses, and other
315 identifying information, in a child-custody proceeding, each party, in its first pleading or in an attached
316 affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present
317 address, the places where the child has lived during the last five years, and the names and present

318 addresses of the persons with whom the child has lived during that period. The pleading or affidavit
319 must state whether the party:

320 (1) has participated, as a party or witness or in any other capacity, in any other proceeding concerning
321 the custody of or visitation with the child and, if so, identify the court, the case number of the
322 proceeding, and the date of the child-custody determination, if any;

323 (2) knows of any proceeding that could affect the current proceeding, including proceedings for
324 enforcement and proceedings relating to domestic violence, protective orders, termination of parental
325 rights, and adoptions and, if so, identify the court and the case number and the nature of the
326 proceeding; and

327 (3) knows the names and addresses of any person not a party to the proceeding who has physical
328 custody of the child or claims rights of legal custody or physical custody of, or visitation with, the
329 child and, if so, the names and addresses of those persons.

330 (b) If the information required by subsection (a) is not furnished, the court, upon its own motion or
331 that of a party, may stay the proceeding until the information is furnished.

332 (c) If the declaration as to any of the items described in subsection (a)(1) through (3) is in the
333 affirmative, the declarant shall give additional information under oath as required by the court. The
334 court may examine the parties under oath as to details of the information furnished and other matters
335 pertinent to the court's jurisdiction and the disposition of the case.

336 (d) Each party has a continuing duty to inform the court of any proceeding in this or any other State
337 that could affect the current proceeding.

338 (e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party
339 or child would be put at risk by the disclosure of identifying information, that information shall be
340 sealed and not disclosed to the other party or the public unless the court orders the disclosure to be
341 made after a hearing in which the court takes into consideration the health, safety, or liberty of the
342 party or child and determines that the disclosure is in the interest of justice.

343 SECTION 210. APPEARANCE OF PARTIES AND CHILD.

344 (a) A court of this State may order a party to a child-custody proceeding who is in this State to appear
345 before the court personally with or without the child. The court may order any person who is in this
346 State and who has physical custody or control of the child to appear physically with the child.

347 (b) If a party to a child-custody proceeding whose presence is desired by the court is outside this State,
348 the court may order that a notice given pursuant to Section 108 include a statement directing the party
349 to appear personally with or without the child and declaring that failure to appear may result in a
350 decision adverse to the party.

351 (c) The court may enter any orders necessary to ensure the safety of the child and of any person
352 ordered to appear under this section.

353 (d) If a party to a child-custody proceeding who is outside this State is directed to appear under
354 subsection (b) or desires to appear personally before the court with or without the child, the court may
355 require another party to pay reasonable and necessary travel and other expenses of the party so
356 appearing and of the child.

358

ENFORCEMENT

359 SECTION 301. DEFINITIONS. In this Article:

360 (1) "Petitioner" means a person who seeks enforcement of a child-custody determination or
361 enforcement of an order for the return of the child under the Hague Convention on the Civil Aspects of
362 International Child Abduction.

363 (2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of
364 a child-custody determination or enforcement of an order for the return of the child under the Hague
365 Convention on the Civil Aspects of International Child Abduction.

366 SECTION 302. SCOPE; TEMPORARY VISITATION.

367 (a) This Article may be invoked to enforce:

368 (1) a child-custody determination; and

369 (2) an order for the return of the child made under the Hague Convention on the Civil Aspects of
370 International Child Abduction.

371 (b) A court of this State which does not have jurisdiction to modify a child-custody determination,
372 may issue a temporary order enforcing

373 (1) a visitation schedule made by a court of another State; or

374 (2) the visitation provisions of a child-custody determination of another State that does not provide for
375 a specific visitation schedule.

376 (c) If a court of this State makes an order under subparagraph (b)(2), it shall specify in the order a
377 period of time which it considers adequate to allow the person seeking the order to obtain an order
378 from the State having jurisdiction under Article 2. The order remains in effect until an order is
379 obtained from the other State or the period expires.

380 SECTION 303. DUTY TO ENFORCE.

381 (a) A court of this State shall recognize and enforce a child-custody determination of a court of another
382 State if the latter court exercised jurisdiction that was in substantial conformity with this Act or the
383 determination was made under factual circumstances meeting the jurisdictional standards of this Act
384 and the determination has not been modified in accordance with this Act.

385 (b) A court may utilize any remedy available under other law of this State to enforce a child-custody
386 determination made by a court of another State. The procedure provided by this Article does not affect
387 the availability of other remedies to enforce a child-custody determination.

388 SECTION 304. REGISTRATION OF CHILD-CUSTODY DETERMINATION.

389 (a) A child-custody determination issued by a court of another State may be registered in this State,
390 with or without a simultaneous request for enforcement, by sending to the appropriate court in this
391 State:

392 (1) a letter or other document requesting registration;

393 (2) two copies, including one certified copy, of the determination sought to be registered, and a
394 statement under penalty of perjury that to the best of the knowledge and belief of the person seeking
395 registration the order has not been modified; and

396 (3) except as otherwise provided in Section 209, the name and address of the person seeking
397 registration and any parent or person acting as a parent who has been awarded custody or visitation in
398 the child-custody determination sought to be registered.

399 (b) On receipt of the documents required by subsection (a), the registering court shall:

400 (1) cause the determination to be filed as a foreign judgment, together with one copy of any
401 accompanying documents and information, regardless of their form; and

402 (2) serve notice upon the persons named pursuant to (a)(3) and provide them with an opportunity to
403 contest the registration in accordance with this section.

404 (c) The notice required by subsection (b)(2) must state:

405 (1) that a registered determination is enforceable as of the date of the registration in the same manner
406 as a determination issued by a court of this State;

407 (2) that a hearing to contest the validity of the registered determination must be requested within 20
408 days after service of notice; and

409 (3) that failure to contest the registration will result in confirmation of the child-custody determination
410 and preclude further contest of that determination with respect to any matter that could have been
411 asserted.

412 (d) A person seeking to contest the validity of a registered order must request a hearing within 20 days
413 after service of the notice. At that hearing, the court shall confirm the registered order unless the
414 person contesting registration establishes that:

415 (1) the issuing court did not have jurisdiction under Article 2;

416 (2) the child-custody determination sought to be registered has been vacated, stayed, or modified by a
417 court of a State having jurisdiction to do so under Article 2; or

418 (3) the person contesting registration was entitled to notice, but notice was not given in accordance
419 with the standards of Section 108 in the proceedings before the court that issued the order for which
420 registration is sought.

421 (e) If a timely request for a hearing to contest the validity of the registration is not made, the
422 registration is confirmed as a matter of law and the person requesting registration and all persons
423 served must be notified of the confirmation.

424 (f) Confirmation of a registered order, whether by operation of law or after notice and hearing,
425 precludes further contest of the order with respect to any matter which could have been asserted at the
426 time of registration.

427 SECTION 305. ENFORCEMENT OF REGISTERED DETERMINATION.

428 (a) A court of this State may grant any relief normally available under the law of this State to enforce a
429 registered child-custody determination made by a court of another State.

430 (b) A court of this State shall recognize and enforce, but may not modify except in accordance with
431 Article 2, a registered child-custody determination of another State.

432 SECTION 306. SIMULTANEOUS PROCEEDINGS.

433 If a proceeding for enforcement under this Article has been or is commenced in this State and a court
434 of this State determines that a proceeding to modify the determination has been commenced in another
435 State having jurisdiction to modify the determination under Article 2, the enforcing court shall
436 immediately communicate with the modifying court. The proceeding for enforcement continues unless
437 the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

438 SECTION 307. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.

439 (a) A petition under this Article must be verified. Certified copies of all orders sought to be enforced
440 and of the order confirming registration, if any, must be attached to the petition. A copy of a certified
441 copy of an order may be attached instead of the original.

442 (b) A petition for enforcement of a child-custody determination must state:

443 (1) whether the court that issued the determination identified the jurisdictional basis it relied upon in
444 exercising jurisdiction and, if so, what the basis was;

445 (2) whether the determination for which enforcement is sought has been vacated, stayed, or modified
446 by a court whose decision must be enforced under this Act or federal law and, if so, identify the court,
447 the case number of the proceeding, and the action taken;

448 (3) whether any proceeding has been commenced that could affect the current proceeding, including
449 proceedings relating to domestic violence, protective orders, termination of parental rights, and
450 adoptions and, if so, identify the court and the case number and the nature of the proceeding;

451 (4) the present physical address of the child and the respondent, if known; and

452 (5) whether relief in addition to the immediate physical custody of the child and attorney's fees is
453 sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

454 (c) If the child-custody determination has been registered and confirmed under Section 304, the
455 petition must also state the date and place of registration.

456 (d) The court shall issue an order directing the respondent to appear with or without the child at a
457 hearing and may enter any orders necessary to ensure the safety of the parties and the child.

458 (e) The hearing must be held on the next judicial day following service of process unless that date is
459 impossible. In that event, the court must hold the hearing on the first day possible. The court may
460 extend the date of hearing at the request of the petitioner.

461 (f) The order must state the time and place of the hearing and must advise the respondent that at the
462 hearing the court will order the delivery of the child and the payment of fees, costs, and expenses
463 under Section 311, and may set an additional hearing to determine whether further relief is
464 appropriate, unless the respondent appears and establishes that:

465 (1) the child-custody determination has not been registered and confirmed under Section 304, and that

466 (A) the issuing court did not have jurisdiction under Article 2;

467 (B) the child-custody determination for which enforcement is sought has been vacated, stayed, or
468 modified by a court of a State having jurisdiction to do so under Article 2 or federal law; or

469 (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of
470 Section 108 in the proceedings before the court that issued the order for which enforcement is sought;
471 or

472 (2) the child-custody determination for which enforcement is sought was registered and confirmed
473 under Section 304, but has been vacated, stayed or modified by a court of a State having jurisdiction to
474 do so under Article 2 or federal law.

475 SECTION 308. SERVICE OF PETITION AND ORDER.

476 Except as otherwise provided in Section 310, the petition and order must be served, by any method
477 authorized by the law of this State, upon respondent and any person who has physical custody of the
478 child.

479 SECTION 309. HEARING AND ORDER.

480 (a) Unless the court enters a temporary emergency order pursuant to Section 204, upon a finding that a
481 petitioner is entitled to the physical custody of the child immediately, the court shall order the child
482 delivered to the petitioner unless the respondent establishes that:

483 (1) the child-custody determination has not been registered and confirmed under Section 304, and that

484 (A) the issuing court did not have jurisdiction under Article 2;

485 (B) the child-custody determination for which enforcement is sought has been vacated, stayed or
486 modified by a court of a State having jurisdiction to do so under Article 2 or federal law; or

487 (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of
488 Section 108 in the proceedings before the court that issued the order for which enforcement is sought;
489 or

490 (2) the child-custody determination for which enforcement is sought was registered and confirmed
491 under Section 304, but has been vacated, stayed or modified by a court of a State having jurisdiction to
492 do so under Article 2 or federal law.

493 (b) The court shall award the fees, costs, and expenses authorized under Section 311 and may grant
494 additional relief, including a request for the assistance of law enforcement officials, and set a further
495 hearing to determine whether additional relief is appropriate.

496 (c) If a party called to testify refuses to answer on the ground that the testimony may be self-
497 incriminating, the court may draw an adverse inference from the refusal.

498 (d) A privilege against disclosure of communications between spouses and a defense of immunity
499 based on the relationship of husband and wife or parent and child may not be invoked in a proceeding
500 under this Article.

501 SECTION 310. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

502 (a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner
503 may file a verified application for the issuance of a warrant to take physical custody of the child if the
504 child is likely to suffer serious imminent physical harm or removal from this State.

505 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child is likely to
506 suffer serious imminent physical harm or be imminently removed from this State, it may issue a

507 warrant to take physical custody of the child. The petition must be heard on the next judicial day after
508 the warrant is executed. The warrant must include the statements required by Section 307(b).

509 (c) A warrant to take physical custody of a child must:

510 (1) recite the facts upon which a conclusion of serious imminent physical harm or removal from the
511 jurisdiction is based;

512 (2) direct law enforcement officers to take physical custody of the child immediately; and

513 (3) provide for the placement of the child pending final relief.

514 (d) The respondent must be served with the petition, warrant, and order immediately after the child is
515 taken into physical custody.

516 (e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds
517 on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not
518 effective, it may authorize law enforcement officers to enter private property to take physical custody
519 of the child. If required by the exigency of the case, the court may authorize law enforcement officers
520 to make a forcible entry at any hour.

521 (f) The court may impose conditions upon placement of a child to ensure the appearance of the child
522 and the child's custodian.

523 SECTION 311. COSTS, FEES, AND EXPENSES.

524 (a) The court shall award the prevailing party, including a State, necessary and reasonable expenses
525 incurred by or on behalf of the party, including costs, communication expenses, attorney's fees,

526 investigative fees, expenses for witnesses, travel expenses, and child care during the course of the
527 proceedings, unless the party from whom fees or expenses are sought establishes that the award would
528 be clearly inappropriate.

529 (b) The court may not assess fees, costs, or expenses against a State except as otherwise provided by
530 law other than this Act.

531 SECTION 312. RECOGNITION AND ENFORCEMENT.

532 A court of this State shall accord full faith and credit to an order made consistently with this Act which
533 enforces a child-custody determination by a court of another State unless the order has been vacated,
534 stayed, or modified by a court authorized to do so under Article 2.

535 SECTION 313. APPEALS.

536 An appeal may be taken from a final order in a proceeding under this [article] in accordance with
537 expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency
538 order under Section 204, the enforcing court may not stay an order enforcing a child-custody
539 determination pending appeal.

540 SECTION 314. ROLE OF PROSECUTOR OR PUBLIC OFFICIAL.

541 (a) In a case arising under this Act or involving the Hague Convention on the Civil Aspects of
542 International Child Abduction, the prosecutor or other appropriate public official may take any lawful
543 action, including resort to a proceeding under this Article or any other available civil proceeding to
544 locate a child, obtain the return of a child, or enforce a child-custody determination if there is:

- 545 (1) an existing child-custody determination;
- 546 (2) a request from a court in a pending child-custody case;
- 547 (3) a reasonable belief that a criminal statute has been violated; or
- 548 (4) a reasonable belief that the child has been wrongfully removed or retained in violation of the
- 549 Hague Convention on the Civil Aspects of International Child Abduction.
- 550 (b) A prosecutor or appropriate public official acts on behalf of the court and may not represent any
- 551 party to a child-custody determination.

552 SECTION 315. ROLE OF LAW ENFORCEMENT.

553 At the request of a prosecutor or other appropriate public official acting under Section 314, a law

554 enforcement officer may take any lawful action reasonably necessary to locate a child or a party and

555 assist a prosecutor or appropriate public official with responsibilities under Section 314.

556 SECTION 316. COSTS AND EXPENSES.

557 If the respondent is not the prevailing party, the court may assess against the respondent all direct

558 expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement

559 officers under Section 314 or 315.

560 ARTICLE 4

561 MISCELLANEOUS PROVISIONS

562 SECTION 401. APPLICATION AND CONSTRUCTION.

563 In applying and construing this Uniform Act, consideration must be given to the need to promote
564 uniformity of the law with respect to its subject matter among States that enact it.

565 SECTION 402. SEVERABILITY CLAUSE.

566 If any provision of this Act or its application to any person or circumstance is held invalid, the
567 invalidity does not affect other provisions or applications of this Act which can be given effect without
568 the invalid provision or application, and to this end the provisions of this Act are severable.

569 SECTION 403. EFFECTIVE DATE. This Act takes effect on January 1, 2005

570 SECTION 404. REPEALS AND AMENDMENTS.

571 (1) The Uniform Child Custody Jurisdiction Act, G. L. c. 209B, is hereby repealed.

572 (2) G.L. c. 208, §28 is amended by adding at the end thereof the jurisdiction of any court to modify an
573 existing judgment as to care and custody of a minor child and shall be subject to the provisions of the
574 Massachusetts Uniform Child Custody Jurisdiction Act.

575 SECTION 405. TRANSITIONAL PROVISION. A motion or other request for relief made in a child-
576 custody or enforcement proceeding that was commenced before the effective date of this Act is
577 governed by the law in effect at the time the motion or other request was made